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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,601	07/20/2001	Don I. Falkenstein	Falkenstein118	2182
7590	06/30/2005		EXAMINER	
James W. Wiegand 204 Washington Street, #4 Marblehead, MA 01945			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/910,601	Applicant(s) FALKENSTEIN ET AL.	
	Examiner Brian D. Nguyen	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 16-17 and 21-39 are objected to because of the following informalities:

Claim 21, line 2, it is suggested to insert --comprising the steps of-- after “switching traffic”.

Claims 16-17 and 35-36, the specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “the controller is responsible to a port access identifier by retrieving network equipment information from the access identifier” in claim 16; “the controller is responsible to a tributary access identifier by retrieving network equipment information from the access identifier” in claim 17; “the controller retrieves network equipment information from a port access identifier” in claim 35; and “the controller retrieves network equipment information from a tributary access identifier” in claim 36.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 3, “may include one or more port tributaries” is unclear if the port tributaries are included or not. It is suggested to replace “may include” to --includes--.

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Claim 21, line 5, “may include one or more port tributaries” is unclear if the port tributaries are included or not. It is suggested to replace “may include” to --includes--.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Arslan et al (6,707,789).

Regarding claim 1, Arslan discloses an integrated telecommunications network element (see col. 3, lines 38-40) comprising: a plurality of add/drop-multiplexers (see ADM 104, 124, 115 of figure 3), each multiplexer having one or more communications ports (ports 21-26 of figure 2), each port carrying communications traffic that may include one or more port tributaries (see col. 1, lines 39-41); a digital cross-connect (see DCS in figures 3 and 4) configured to route communications traffic among the tributaries; and a controller (110) configured to create one or more logical tributaries between the digital cross-connect and the ports by mapping one or more port tributaries into a logical tributary (see figure 1 for details of a DCS, figure 2 for details of an ADM, figure 3 ADM and DCS are integrated, and figure 4 where the controller 110 can control both the ADM and DCS).

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Regarding claim 2, Arslan discloses the controller is configured to route working traffic from a port through a logical tributary to the digital cross-connect (see figure 3 where traffic from rings 10, 11, and 12 are routed through logical tributaries to the digital cross connect (DCS)).

Regarding claims 21-22, claims 21-22 are method claims that have substantially the same limitations as the respective apparatus claims 1-2. Therefore, they are subject to the same rejection.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6, 8-10, 12-15, 18-20, 23-25, 27-29, 31-34, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arslan in view of McAllister et al (6,697,329).

Regarding claims 3-6, 8-10, 12-15, and 18-20, Arslan discloses the controller (110) determining the status/state of ports/paths and provisioning cross-connection and working/protection ports/paths so that any port that connected to a line interface unit within the integrated DCS (including ADMs and DCS as shown in figure 3) to be coupled within the integrated DCS to any other port that is connected to a line interface unit within the integrated DCS and when a working path/port fails, the data packets will be automatically rerouted to a protection path/port (see col. 2, lines 13-29; col. 4, lines 17-31 & 54-59). Arslan also discloses

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the provision can be performed by a user (administrator) (see col. 7, lines 19-24). Arslan does not specifically disclose the user provision working/protection paths/ports. However, McAllister discloses that the user can provision paths/ports/cross-connection by manual entry, manual with point-and-click assistance, or automatic route generation with optional manual editing (see col. 3, lines 28-41 and col. 7, line 55-col. 8, line 19). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provision the paths and ports as taught by McAllister in the system of Arslan in order to improve the provision flexibility.

Regarding claims 23-25, 27-29, 31-34, and 37-39, claims 23-25, 27-29, 31-34, and 37-39 are method claims that have substantially the same limitations as the respective apparatus claims 4-6, 8-10, 12-15, 18-20. Therefore, they are subject to the same rejection.

#### ***Allowable Subject Matter***

8. Claims 7, 11, 26, and 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stamatelakis et al (6,404,734), Sharma et al (6,839,514), and Ball (5,583,855).

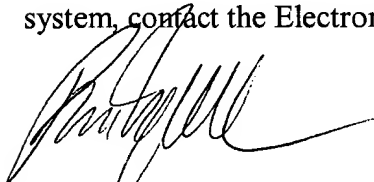
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



6/22/05

**BRIAN NGUYEN**  
**PRIMARY EXAMINER**